

IC 27-1-22

Chapter 22. Regulation of Insurance Rates

IC 27-1-22-1

Purpose

Sec. 1. The purpose of this chapter is to promote the public welfare by empowering the commissioner of insurance to regulate insurance rates to the end that they shall not be excessive, inadequate, or unfairly discriminatory, and to encourage reasonable competition among insurance companies (referred to in this chapter as insurers) and to permit and regulate, but not require, cooperative action among insurers as to rates, rating systems, rating plans and practices, and other matters within the scope of this chapter. This chapter shall be liberally interpreted to carry into effect the provisions of this section.

(Formerly: Acts 1967, c.133, s.1.) As amended by P.L.252-1985, SEC.104.

IC 27-1-22-2

Application of act; exceptions; "inland marine insurance" defined

Sec. 2. (a) This chapter applies to all forms of casualty insurance including fidelity, surety, and guaranty bonds, to all forms of motor vehicle insurance, to all forms of fire, marine, and inland marine insurance, and to any and all combinations of the foregoing or parts thereof, on risks or operations in this state, except:

- (1) reinsurance, other than joint reinsurance to the extent stated in section 14 of this chapter;
- (2) accident and health insurance;
- (3) insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;
- (4) insurance against loss or damage to aircraft or against liability arising out of the ownership, maintenance, or use of aircraft;
- (5) worker's compensation insurance; and
- (6) abstract and title insurance.

(b) Inland marine insurance includes insurance defined by statute, or by interpretation of statute, or if not so defined or interpreted, by ruling of the commissioner of insurance (referred to as the commissioner), or as established by general custom of the business, as inland marine insurance.

(c) This chapter shall not apply to farmers' mutual insurance companies organized and operating under IC 27-5 unless and only to the extent that IC 27-5 specifically provides that such companies are subject to:

- (1) this chapter;
- (2) Acts 1947, c.60; or
- (3) Acts 1947, c.111.

(Formerly: Acts 1967, c.133, s.2.) As amended by P.L.252-1985, SEC.105; P.L.28-1988, SEC.79.

IC 27-1-22-2.5

"Exempt commercial policyholder" and "risk manager" defined

Sec. 2.5. (a) As used in this chapter, "exempt commercial policyholder" means an entity that:

- (1) makes written certification to the entity's insurer on a form prescribed by the department that the entity is an exempt commercial policyholder;
- (2) has purchased the policy of insurance through an insurance agent licensed under IC 27-1-15.6 or IC 27-1-15.8; and
- (3) meets any three (3) of the following criteria:
 - (A) Has a net worth of more than twenty-five million dollars (\$25,000,000) at the time the policy of insurance is issued.
 - (B) Has a net revenue or sales of more than fifty million dollars (\$50,000,000) in the preceding fiscal year.
 - (C) Has more than twenty-five (25) employees per individual company or fifty (50) employees per holding company aggregate at the time the policy of insurance is issued.
 - (D) Has aggregate annual commercial insurance premiums, excluding any worker's compensation and professional liability insurance premiums, of more than seventy-five thousand dollars (\$75,000) in the preceding fiscal year.
 - (E) Is a nonprofit or a public entity with an annual budget of at least twenty-five million dollars (\$25,000,000) or assets of at least twenty-five million dollars (\$25,000,000) in the preceding fiscal year.
 - (F) Procures commercial insurance with the services of a risk manager.

An entity meets the written certification requirement under subdivision (1) if the entity provides a copy of a certification previously submitted under subdivision (1) and if there has been no significant material change in the entity's status.

(b) As used in this chapter, "risk manager" means a person qualified to assess an exempt commercial policyholder's insurance needs and analyze and negotiate a policy of insurance on behalf of an exempt commercial policyholder. A risk manager may be:

- (1) a full-time employee of an exempt commercial policyholder who is qualified through education and experience or training and experience; or
- (2) a person retained by an exempt commercial policyholder who holds a professional designation relevant to the type of insurance to be purchased by the exempt commercial policyholder.

As added by P.L.268-1999, SEC.11. Amended by P.L.132-2001, SEC.6.

IC 27-1-22-3

Guidelines for establishing rates; uniformity; fleet or fleet policy

Sec. 3. (a) Rates shall be made in accordance with the following provisions:

- (1) Due consideration shall be given to the past and prospective loss experience within and outside this state, to conflagration and catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends or savings

allowed or returned by insurers to their policyholders or members, to past and prospective expenses both countrywide and those specifically applicable to this state, to all other relevant factors, including trend factors, within and outside this state, and in the case of fire insurance rates, to the underwriting experience of the fire insurance business during a period of not less than the most recent five (5) year period for which such experience is available and relevant.

(2) Risks may be grouped by classifications, by rating schedules, or by any other reasonable methods, for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any difference among risks that can be demonstrated to have a probable effect upon losses or expenses.

(3) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

(4) Rates shall not be excessive, inadequate, or unfairly discriminatory.

No rate shall be held to be excessive unless such rate is unreasonably high for the insurance coverage provided and a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable. No rate shall be held to be inadequate unless such rate is unreasonably low for the insurance coverage provided and is insufficient to sustain projected losses and expenses, or unless such rate is unreasonably low for the insurance coverage provided and the use of such rate has, or if continued, will have, the effect of destroying competition or creating a monopoly.

(b) Except to the extent necessary to meet the provisions of subsection (a)(4), uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

(c) For the purpose of making rates upon automobiles and other motor vehicles under the provisions of this chapter, the terms "fleet" or "fleet policy" shall mean an insurance risk of five (5) or more automobiles and other vehicles of any kind, all owned by one (1) insured and all under one (1) direct operating management; provided, that automobiles and other motor vehicles owned by employees may not be included or insured under a fleet policy of an employer under any circumstances.

(Formerly: Acts 1967, c.133, s.3.) As amended by P.L.252-1985, SEC.106.

IC 27-1-22-3.1

Senior citizens participating in motor vehicle accident prevention courses; reduced premiums

Sec. 3.1. (a) As used in this section, "motor vehicle insurance" means any type of insurance described in IC 27-1-5-1, Class 2(f).

(b) A motor vehicle insurance rate filed under section 4 of this chapter may provide for an appropriate reduction in premium charges for a policy if the principal operator of the motor vehicle covered under the policy:

- (1) is at least fifty-five (55) years of age; and
- (2) has, within three (3) years before the issuance or renewal of the policy, successfully completed a motor vehicle accident prevention course approved by the bureau of motor vehicles.

(c) A reduction in premium charges need not be provided under this section if the principal operator of the motor vehicle covered under the policy participated in the motor vehicle accident prevention course under the order of a court.

(d) This section does not prevent an insurer from withholding or rescinding the reduction in premium charges for a motor vehicle insurance policy if the principal operator of the motor vehicle covered under the policy is involved in a motor vehicle accident for which the principal operator is at fault.

As added by P.L.121-1989, SEC.11.

IC 27-1-22-4

Rate filings; exemptions; procedure and requirements; public inspection; rules

Sec. 4. (a) Every insurer shall file with the commissioner, every manual of classifications, rules, and rates, every rating schedule, every rating plan, and every modification of any of the foregoing which it proposes to use.

(b) The following types of insurance are exempt from the requirements of subsections (a) and (j):

- (1) Inland marine risks, which by general custom of the business are not written according to manual rates or rating plans.
- (2) Insurance, other than workers compensation insurance or professional liability insurance, issued to exempt commercial policyholders.

(c) Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the information upon which the filer supports such filing.

(d) The information furnished in support of a filing may include:

- (1) the experience and judgment of the insurer or rating organization making the filing;
- (2) its interpretation of any statistical data it relies upon;
- (3) the experience of other insurers or rating organizations; or
- (4) any other relevant factors.

The commissioner shall have the right to request any additional relevant information. A filing and any supporting information shall be open to public inspection as soon as stamped "filed" within a reasonable time after receipt by the commissioner, and copies may be obtained by any person on request and upon payment of a reasonable charge therefor.

(e) Filings shall become effective upon the date of filing by delivery

or upon date of mailing by registered mail to the commissioner, or on a later date specified in the filing.

(f) Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(g) Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf, provided that nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the commissioner to accept such filings on its behalf.

(h) Every insurer which is a member of or a subscriber to a rating organization shall be deemed to have authorized the commissioner to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

- (1) that any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the commissioner and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and
- (2) that any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the commissioner:

(A) requiring a member, before making an independent filing, first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty

(30) days after receipt of such request, either:

- (i) to make such filing as a rating organization filing;
- (ii) to make such filing on an agency basis solely on behalf of the requesting member; or
- (iii) to decline the request of such member; and

(B) excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

(i) Under such rules as he shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kinds of insurance, or subdivision, or classes of risk, or parts or combinations of any of the foregoing, the rates for which can not practicably be filed before they are used. Such orders and rules shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order are excessive, inadequate, or unfairly discriminatory.

(j) Upon the written application of the insured, stating his reasons therefor, filed with the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(k) An insurer shall not make or issue a policy or contract except in accordance with filings which are in effect for that insurer or in accordance with the provisions of this chapter. Subject to the provisions of section 6 of this chapter, any rates, rating plans, rules, classifications, or systems in effect on May 31, 1967, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

(l) The commissioner shall have the right to make an investigation and to examine the pertinent files and records of any insurer, insurance agent, or insured in order to ascertain compliance with any filing for rate or coverage which is in effect. He shall have the right to set up procedures necessary to eliminate noncompliance, whether on an individual policy, or because of a system of applying charges or discounts which results in failure to comply with such filing.

(m) The department may adopt rules to:

- (1) implement the exemption under subsection (b);
- (2) impose disclosure requirements the commissioner determines are necessary to adequately protect exempt commercial policyholders; and
- (3) establish the form of the report required by subsection (n).

(n) Each insurer who issues insurance to an exempt commercial policyholder shall file an annual report with the department by February 1 of each year. The annual report may not disclose the identity of an exempt commercial policyholder and must include only the following information regarding each exempt commercial policyholder:

- (1) The account number, policy number, or other number used by the insurer to identify the insured.
- (2) The amount of aggregate annual commercial premium.
- (3) The inception date and expiration date of commercial insurance coverage provided by the insurer.
- (4) The criteria in section 2.5(a)(3) of this chapter used to establish the entity as an exempt commercial policyholder.

(o) The annual report filed under subsection (n) must be accompanied by the fee prescribed by IC 27-1-3-15(e). For purposes of calculating the required fee, each policy purchased by an exempt commercial policyholder shall be considered a product filing under IC 27-1-3-15(e).

(Formerly: Acts 1967, c.133, s.4.) As amended by P.L.252-1985, SEC.107; P.L.268-1999, SEC.12.

IC 27-1-22-5

Hearing on question of compliance with filing requirements; finding and order

Sec. 5. (a) Upon his own motion, or upon written request by any insured affected thereby or by any licensed insurance agent or broker, if such request is made in good faith and states reasonable grounds, the commissioner, if he shall have reason to believe that any filing is not in compliance with the applicable provisions of section 3 of this chapter, or in the case of an alleged violation of section 6 of the chapter if he finds on the basis of the information on file with the department

that there has been a prima facie showing of a violation of that section, shall hold a hearing upon not less than ten (10) days written notice to the rating organization or insurer which made the filing in issue, specifying the items and matters to be considered and stating in what manner and to what extent noncompliance is alleged to exist. No other matter or subject shall be considered at such hearing. Only the rating organization or insurer which made such filing and the commissioner may be parties to any hearing or to any judicial appeal resulting therefrom. Within a reasonable time, the commissioner shall notify every person making request as to his decision as to the validity of the request and subsequently shall notify every such person of any action which may thereafter be taken with reference to such request.

(b) If, after such hearing, the commissioner finds, based upon a preponderance of the evidence adduced at such hearing and made a part of the record thereof, that such filing is not in compliance with the provisions of section 3 of this chapter, he shall immediately issue a written order to the parties specifying in detail in what respects and upon what evidence such noncompliance exists and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said order shall not affect any contract policy made or issued prior to the expiration of the period set forth in said order.

(c) If after such hearing the commissioner finds that such filing does not violate the provisions of section 3 of this chapter, he shall immediately issue a written order to the parties dismissing the proceedings.

(d) The finding and order of the commissioner shall be made within ninety (90) days after the close of such hearing or within such reasonable time extensions as may be fixed by the commissioner.

(e) No manual of classifications, rule, rate, rating schedule, rating plan, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, which has been filed pursuant to section 4 of this chapter shall be disapproved if the rates produced thereby meet the requirements of section 3 of this chapter.

(f) All actions of the commissioner under this chapter and all appeals from his action shall be governed by IC 4-21.5, except where a different specific provision is made in this chapter.

(Formerly: Acts 1967, c.133, s.5; Acts 1971, P.L.1, SEC.9.) As amended by P.L.252-1985, SEC.108; P.L.7-1987, SEC.140.

IC 27-1-22-6

Bad faith filing; burden of proof; order to rewrite policies at approved rate

Sec. 6. (a) A "bad-faith filing", as used in this chapter, means a rate filing made by any filer who, in bad faith, files a rate which it knows, or should know, is grossly inadequate for the insurance coverage provided, and which is filed and used for the purpose of unfairly obtaining a particular risk or limited group of risks, and which is available only to such risk or limited group of risks.

(b) At any hearing conducted under this section, the burden shall be on the filer to prove that such filing is not in violation of this section.

If, after such hearing, the commissioner finds that the filer has failed to prove that such filing is not in violation of this section, based on the evidence adduced at the hearing and made a part of the record, he may order all policies written under such bad-faith filing to be rewritten at an approved rate from the date of the inception of such policies of insurance, or all such policies shall be cancelled pro rata in accordance with the policy provisions.

(c) Nothing in this section shall be deemed to supersede the provisions set forth in section 24 of this chapter.

(Formerly: Acts 1967, c.133, s.6.) As amended by P.L.252-1985, SEC.109.

IC 27-1-22-7

Rate adjustment filing or deviation; effectiveness unless disapproved; hearing; approval or disapproval

Sec. 7. (a) When a filing or deviation involving a rate adjustment depends upon a change in the relationship between the proposed rates and the anticipated production expense portion thereof from the relationship anticipated under any rates previously filed and currently in effect for the company or rating organization involved, such filing or deviation shall be subject to the provisions of subsection (b).

(b) Each filing or deviation subject to this section shall be on file for a waiting period of twenty (20) days before it becomes effective. If within such waiting period or after hearing as provided in this section, the commissioner finds that the filing or deviation does not meet the requirements of this chapter, he shall send to the insurer or rating organization which made the filing or to the insurer which filed the deviation written notice of disapproval specifying therein in what respects the filing or deviation fails to meet the requirements of this chapter and stating that the same shall not become effective. Such filing or deviation shall be deemed to meet the requirements of this act unless disapproved:

- (1) within such waiting period; or
- (2) if a hearing has been called and written notice thereof given by the commissioner during such waiting period, then within ten (10) days after the date of commencement of such hearing.

Upon his own motion, or upon timely written request by any agent or broker of the company or companies to which such filing or deviation is applicable, if such request is in good faith and states reasonable grounds, the commissioner may at any time within the waiting period call a hearing upon not less than ten (10) nor more than fifteen (15) days written notice to the company or rating organization making the filing or to the company filing the deviation. Within ten (10) days after the commencement of such hearing, the commissioner shall in writing either approve such filing or deviation or shall disapprove the same as provided in this section.

(Formerly: Acts 1967, c.133, s.7.) As amended by P.L.252-1985, SEC.110.

IC 27-1-22-8

Rating organizations; definitions; license; services to

subscribers; rules; cooperation

Sec. 8. (a) A rating organization is an individual, partnership, corporation, limited liability company, or unincorporated association other than an insurer located within or without this state, who or which has as its primary object and purpose the making and filing of rates, rating plans, rating systems, or rules relating thereto, and who or which may also examine policies, daily reports, binders, renewal certificates, endorsements, and other evidences of insurance or the cancellation thereof for any member or subscriber requesting such auditing service.

(b) Such a rating organization shall make application to the commissioner for license as a rating organization for such kinds of insurance, or subdivisions, or classes of risk, or parts or combination of any of the foregoing as are specified in its application and shall file therewith:

- (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules, and regulations governing the conduct of its business;
- (2) a list of its members and subscribers;
- (3) the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such rating organization may be served; and
- (4) a statement of its qualifications as a rating organization.

(c) If the commissioner finds that the applicant is competent, trustworthy, and otherwise qualified to act as a rating organization, and that its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules, and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance, or subdivisions, or classes of risk, or parts or combinations of any of the foregoing for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the commissioner within sixty (60) days of the date of its filing with him. Licenses issued pursuant to this section shall remain in effect for three (3) years unless sooner suspended or revoked by the commissioner. The fee for the license is seventy-five dollars (\$75). Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection. Every rating organization shall notify the commissioner promptly of every change in:

- (1) its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules, and regulations governing the conduct of its business;
- (2) its list of members and subscribers; and
- (3) the name and address of the resident of this state designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

(d) Subject to rules and regulations which have been approved by the commissioner as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its services for any one (1) or more of the kinds of insurance, subdivisions, or classes of risk or

parts or combinations of any of the foregoing for which it is authorized to act as an organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the commissioner at a hearing held upon at least ten (10) days written notice to such rating organization and to such subscriber or insurer. If the commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within thirty (30) days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If the commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

(e) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends or savings allowed or returned by insurers to their policyholders or members.

(f) Cooperation among rating organizations or among rating organizations and insurers in ratemaking or in other matters within the scope of this chapter is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of this chapter which are applicable to filing generally. The commissioner may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable, or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter and requiring the discontinuance of such activity or practice.

(g) Any rating organization may subscribe for or purchase actuarial, technical, or other services, and such services shall be available to all members and subscribers without discrimination.

(h) A member of a rating organization means an insurer entitled to participate in its management and electing to exercise its right to so participate.

(Formerly: Acts 1967, c.133, s.8.) As amended by P.L.252-1985, SEC.111; P.L.31-1988, SEC.14; P.L.8-1993, SEC.415.

IC 27-1-22-9

Deviation from rates; filing; effective date; termination; public inspection

Sec. 9. (a) In addition to any rights conferred pursuant to section 4 of this chapter any member or subscriber to a rating organization may file with commissioner a deviation from the rates, rating schedules, rating plans, rating systems, or rules respecting any kind of insurance, division, subdivision, classification, or any part or combination of any

of the foregoing.

(b) Such a filing shall specify the nature and extent of the deviation and shall be accompanied by the relevant information upon which the filer supports the deviation. The commissioner shall have the right to request any additional relevant information.

(c) Such deviation shall become effective upon the date of filing by delivery or upon date of mailing by registered mail to the commissioner or on a later date specified in the filing. It shall be in effect until terminated by the filer giving notice to the commissioner of the termination of the deviation. A change in the rates, rating schedules, rating plans, rating systems, or rules to which the deviation applies shall not terminate the deviation without the consent of the insurer to which the deviation applies. Any such deviation may be terminated by the commissioner pursuant to the provisions of section 5 of this chapter and after notice and hearings as provided in section 5 of this chapter.

(d) A deviation filing and supporting information shall be open to public inspection as soon as stamped "filed" within a reasonable time after receipt by the commissioner and copies may be had by any person on request and upon the payment of a reasonable charge therefor.

(Formerly: Acts 1967, c.133, s.9.) As amended by P.L.252-1985, SEC.112.

IC 27-1-22-10

Insurers acting in concert

Sec. 10. Subject to and in compliance with all other provisions of this chapter, two (2) or more insurers may act in concert with each other and with others with respect to any matters within the purview of this chapter and are authorized to act in concert between or among themselves to the same extent as if they constituted a single insurer.

(Formerly: Acts 1967, c.133, s.10.) As amended by P.L.252-1985, SEC.113.

IC 27-1-22-11

Appeal to commissioner from act or decision of rating organization; decision and order

Sec. 11. (a) Any subscriber which has authorized a rating organization to making filings on its behalf and any member thereof which does not wish to act under sections 4(g) and 4(h) of this chapter may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the commissioner shall, after a hearing held upon not less than ten (10) days written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings in a manner consistent with his findings within a reasonable time after the issuance of such order.

(b) If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in section 3(a)(3) of this chapter from the system of expense provisions included in a filing made by the rating organization, the commissioner shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal the commissioner shall apply the standards set forth in section 3 of this chapter.

(Formerly: Acts 1967, c.133, s.11.) As amended by P.L.252-1985, SEC.114; P.L.268-1999, SEC.13.

IC 27-1-22-12

Procedure on complaint by insured

Sec. 12. Any insured may, in writing, request his insurer or its rating organization to review the manner in which its filing or the filing made by a rating organization on its behalf has been applied with respect to insurance afforded him. Any such insured aggrieved by the failure or refusal of an insurer or rating organization to make such review and to grant appropriate relief within thirty (30) days after such request is received may file a written complaint and request for a hearing with the commissioner, specifying the grounds relied upon. If the complaint charges a violation of this chapter and the commissioner finds that the complaint was made in good faith and that the complainant would be aggrieved if the violation is proven, he shall hold a hearing upon not less than ten (10) days written notice to the complainant, the insurer, and the related rating organization, if any, stating the grounds of complaint. If after such hearing he finds the complaint justified, he shall order the matter complained of to be corrected within a reasonable time, but not less than twenty (20) days after a copy of his written order has been mailed to or served upon the insurer complained against.

(Formerly: Acts 1967, c.133, s.12.) As amended by P.L.252-1985, SEC.115.

IC 27-1-22-13

Advisory organization; filing and regulation; orders of commissioner

Sec. 13. (a) Every group, association, or other organization of insurers, whether located within or outside this state, which assists insurers which make their own filings or rating organizations in ratemaking, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this chapter, shall be known as an advisory organization.

- (b) Every advisory organization shall file with the commissioner:
- (1) a copy of its constitution, its articles of agreement or association, or its certificate of incorporation and of its bylaws, rules, and regulations governing its activities;
 - (2) a list of its members;
 - (3) the name and address of a resident of this state upon whom

notices or orders of the commissioner or process issued at his direction may be served; and

(4) an agreement that the commissioner may examine such advisory organization in accordance with the provisions of section 15 of this chapter.

(c) If, after a hearing, the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respect such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, and requiring the discontinuance of such act or practice.

(d) No insurer which makes its own filings nor any rating organization shall support its findings by statistics or adopt ratemaking recommendations furnished to it by an advisory organization which has not complied with this section or with an order of the commissioner involving such statistics or recommendations issued under subsection (c). If the commissioner finds such insurer or rating organization to be in violation of this subsection, he may issue an order requiring the discontinuance of the violation.

(Formerly: Acts 1967, c.133, s.13.) As amended by P.L.252-1985, SEC.116.

IC 27-1-22-14

Regulation of organization of insurers engaging in joint underwriting or joint reinsurance; unfair or unreasonable practices

Sec. 14. (a) Every group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance shall be subject to regulation with respect thereto as provided in this chapter, subject, however, with respect to joint underwriting, to all other provisions of this chapter and with respect to joint reinsurance, to section 15 of this chapter.

(b) If, after a hearing, the commissioner finds that any activity or practice of any such group, association, or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this chapter and requiring the discontinuance of such activity or practice.

(Formerly: Acts 1967, c.133, s.14.) As amended by P.L.252-1985, SEC.117.

IC 27-1-22-15

Examination of licensed rating organization; report of examination in another state; cost of examination

Sec. 15. (a) The commissioner shall, at least once every three (3) years, make or cause to be made an examination of each licensed rating organization, and may, as often as he may deem it expedient, make or cause to be made an examination of each advisory organization and of each group, association, or other organization of insurers which

engages in joint underwriting or joint reinsurance pursuant to section 13 of this chapter to ascertain whether such rating or advisory organization or group, association or other organization complies with the applicable provisions of this chapter. In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another state.

(b) The officers, managers, agents, and employees of any such organization, group or association may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation, together with all data, statistics and information of every kind and character collected or considered by such organization, group or association in the conduct of the operations to which such examination relates.

(c) The reasonable cost of any examination authorized by this chapter shall be paid by the organization, group, or association examined, upon presentation to it of a detailed account of such cost.

(d) No report of examination shall be made public until the organization examined has an opportunity to review the proposed report and to have a hearing with reference thereto, after which hearing the report shall be filed for public inspection and become admissible in evidence as a public record.

(Formerly: Acts 1967, c.133, s.15.) As amended by P.L.252-1985, SEC.118.

IC 27-1-22-16

Approval of rules and statistical plans; exchange of information and experience data

Sec. 16. a. The commissioner shall approve reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countrywide expense experience. In approving such rules and plans, the commissioner shall give due consideration to the rating systems on file with him and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The commissioner may designate rating organizations or other agencies, or both, to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules approved by the commissioner to insurers and advisory and rating organizations.

b. In order to further uniform administration of the regulatory laws, the commissioner and every insurer, rating organization, advisory organization or statistical agency may exchange information and

experience data with insurance supervisory officials, insurers, rating organizations, advisory organizations or statistical agencies in this and other states and may consult with them with respect to rate making and the application of rating systems.

c. The commissioner may make reasonable rules and regulations necessary to effect the purposes of this section.

(Formerly: Acts 1967, c.133, s.16.)

IC 27-1-22-17

Withholding information; giving false or misleading information

Sec. 17. No person may knowingly withhold information from, or knowingly give false or misleading information to, the commissioner or the department, to any statistical agency designated by the department, to any rating organization, or to any insurer, which will affect the rates or premiums chargeable under this article.

(Formerly: Acts 1967, c.133, s.17.) As amended by Acts 1978, P.L.2, SEC.2714.

IC 27-1-22-18

Deviation from authorized premium charge; discounts and rebates as inducement to insure; commissions for agents

Sec. 18. No insurer, broker, or agent shall knowingly charge, demand, or receive a premium for any policy of insurance except in accordance with the provisions of this chapter. No insurer or employee thereof, and no broker or agent shall pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in applicable filings. No insured named in any policy of insurance shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. Nothing in this section shall be construed as prohibiting the payment of, nor permitting the regulation of the payment of, commissions or other compensation to duly licensed agents and brokers, nor as prohibiting, or permitting the regulation of, any insurer from allowing or returning to its participating policyholders or members, dividends or savings.

(Formerly: Acts 1967, c.133, s.18.) As amended by P.L.252-1985, SEC.119.

IC 27-1-22-19

Freedom of contract with reference to commissions

Sec. 19. Nothing in this chapter abridges or restricts the freedom of contract of insurers, agents, or brokers with reference to the amount of commission to be paid to agents or brokers by insurers, and such payments are expressly authorized.

(Formerly: Acts 1967, c.133, s.19.) As amended by P.L.252-1985, SEC.120.

IC 27-1-22-20

High risk auto insurance; apportionment agreements; rate modifications

Sec. 20. Agreements may be made among insurers with respect to the equitable apportionment among them of automobile, bodily injury liability, and property damage insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods, and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the terms of this chapter.

(Formerly: Acts 1967, c.133, s.20.) As amended by P.L.252-1985, SEC.121.

IC 27-1-22-21

Repealed

(Repealed by P.L.4-1988, SEC.17.)

IC 27-1-22-22

Appointment and removal of additional personnel; powers of deputy conducting hearings; exemption from personal liability

Sec. 22. (a) For the purpose of maintaining the affirmative, active, and definite administration of the provisions of this chapter, the commissioner, with the approval of the governor, may appoint such additional actuaries, deputies, examiners, assistants, and other employees in the department as may be found necessary to carry out the provisions of this chapter. Except as otherwise provided in this chapter, such additional deputies, examiners, assistants, and employees so appointed shall be chosen for their fitness, either professional or practical, as the nature of the position may require, irrespective of their political beliefs or affiliations. The technical or professional qualifications of any applicant shall be determined by examination, professional rating or otherwise, as the commissioner with the approval of the governor may determine. Subject to the approval of the governor and the state budget director, the salaries of such additional actuaries, deputies, examiners, assistants, and other employees shall be fixed by the commissioner. Any actuary, deputy, examiner, assistant, or employee so employed may be removed at any time by the commissioner.

(b) In the absence of the commissioner, he may, by written order, designate a deputy to conduct any hearing, and, in such case, such deputy commissioner shall possess and may exercise any and all powers of the commissioner with respect to the matter in hearing.

(c) Neither the commissioner nor any actuary, deputy, examiner, assistant, or employee in the department shall be liable in their individual capacity, except to the state of Indiana, for any act done or omitted in connection with the performance of their respective duties under the provisions of this chapter.

(Formerly: Acts 1967, c.133, s.22.) As amended by P.L.252-1985, SEC.123.

IC 27-1-22-23

Exemption of rates and classifications from law governing rules and regulations

Sec. 23. No provision of IC 4-22-2 shall be construed to apply to rates or classifications made pursuant to the provisions of this chapter and approved by the commissioner or department.

(Formerly: Acts 1967, c.133, s.23.) As amended by P.L.252-1985, SEC.124.

IC 27-1-22-24

Suspension or revocation of licenses

Sec. 24. (a) The commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the commissioner or department within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed. No license shall be suspended or revoked except upon a written order of the commissioner, stating his findings, made after a hearing is held upon not less than fifteen (15) days' written notice to the person specifying the alleged violation.

(b) A person who violates this chapter commits a Class A misdemeanor.

(Formerly: Acts 1967, c.133, s.24.) As amended by Acts 1978, P.L.2, SEC.2715.

IC 27-1-22-25

Motor vehicle insurance; rating plan establishing higher rates for bankruptcy petitioners; violations

Sec. 25. (a) This section only applies to a policyholder or an applicant who is an individual.

(b) As used in this section, "motor vehicle insurance" means any type of insurance described in IC 27-1-5-1, Class 2(f).

(c) A motor vehicle insurance rating plan filed under section 4 of this chapter may not establish a higher rate for a policyholder based on the fact that the policyholder has filed a voluntary petition under the federal bankruptcy law (11 U.S.C. 101 et seq.).

(d) The premium rate for an individual policy of motor vehicle insurance may not be set higher than the applicable rate set forth in the rating plan in effect under this chapter based on the fact that the policyholder or applicant has filed a voluntary petition under the federal bankruptcy law.

(e) The violation of this section is an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4.

As added by P.L.122-1992, SEC.1.

IC 27-1-22-26

Motor vehicle insurance; rating plan establishing higher rates for persons in armed forces; violations

Sec. 26. (a) As used in this section, "armed forces" means the following:

- (1) The Army.
- (2) The Navy.
- (3) The Air Force.
- (4) The Marine Corps.
- (5) The Coast Guard.

(b) This section applies only to an individual:

- (1) who is applying for motor vehicle insurance; and
- (2) who:
 - (A) is serving in one (1) of the armed forces; or
 - (B) has served in one (1) of the armed forces within six (6) months before applying for motor vehicle insurance.

(c) As used in this section, "motor vehicle insurance" means any type of insurance described in IC 27-1-5-1, Class 2(f).

(d) As used in this chapter, "rating plan" means the rating schedule or rating plan of an insurer concerning premium rates for motor vehicle insurance that has been filed with the commissioner and is in effect under section 4 of this chapter.

(e) An insurer may not set the premium rate for a policy of motor vehicle insurance for an individual described in subsection (b) at an amount higher than the applicable rate set forth in the rating plan due to the fact that the individual has not been covered by motor vehicle insurance for a period of time.

(f) The violation of this section is an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4.

As added by P.L.223-1993, SEC.5.

IC 27-1-22-27

Motor vehicle insurance; rates for innocent prior-uninsured motorists

Sec. 27. (a) The purpose of this section is to preclude insurers from charging higher rates for innocent prior-uninsured motorists who have not operated a motor vehicle in violation of any financial responsibility or compulsory insurance requirement within the prior twelve months.

(b) As used in this section, "motor vehicle insurance" means any type of insurance described in IC 27-1-5-1, Class 2(f).

(c) A motor vehicle insurer may not discriminate in establishing a rate for a policyholder or applicant, based solely on the absence of insurance by the applicant or policyholder.

(d) This section does not apply to applicants who first received their driver's license within the past thirty-six (36) month period.

(e) A violation of this section is an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4.

As added by P.L.169-1999, SEC.1.